

To: Boating and Waterways Commission Members

From: Department of Boating and Waterways, Legislative Unit

Subject: **LEGISLATIVE REPORT, APRIL 4, 2002**

This report was prepared on March 18, 2002. Please note there are several new bills that have been recently introduced.

ASSEMBLY BILLS

AB 107 (Joe Nation). **Abandoned Vessels**. AB 107 would allow local public agencies to remove and dispose of abandoned vessels and wrecked property in a shorter time period than allowed under existing law.

AB 107 would allow a local agency to impose a fine on any person who abandons any derelict or parts of any vessel upon specified public lands under certain conditions.

AB 107 would allow a public agency to remove and sell abandoned property from a navigable waterway when the vessel has an estimated value of less than \$2,000, as compared to \$300 under existing law.

AB 107 would add three new conditions under which any peace officer, and other specified officials, could remove a vessel from a public waterway: (1) when the vessel is illegally moored or docked on public property, and has been properly posted with a notice stating the impending action, for more than 72 hours, or (2) when the vessel is moored or docked without valid registration, or with registration that has lapsed for at least 60 days, on public property, and has been properly posted with a notice stating the impending action, for more than 72 hours, and (3) when the vessel or its mooring is determined to be unseaworthy by a marine surveyor.

Sponsor: Author

Status: Amended on June 4, 2001. Passed the Assembly (48-21) on April 23, 2001. In the Senate Judiciary Committee.

Department Position: Support.

AB 125 (Lynn Leach). **Pennywort (Hydrocotyle), Aquatic Plant, Delta.** AB 125 would designate the Department of Boating and Waterways as the lead agency for the state in controlling an aquatic plant called Hydrocotyle (also known as pennywort) in the Sacramento-San Joaquin Delta, its tributaries and the Suisun Marsh, identical to the Department's authority for water hyacinth and Egeria densa.

Sponsor: Author

Status: Amended May 25, 2001. **Died** in the Assembly Transportation Committee.

Department Position: No approved position.

AB 537 (Joe Canciamilla). **Unseaworthy Vessels.** Among other things, AB 2362 would make it a crime to moor or anchor an unseaworthy vessel in any waterway. AB 2362 would make it a crime for a person to use any marine home as a dwelling in any waterway for more than three days unless that person had obtained a liveaboard permit from the county of jurisdiction.

Sponsor: Author

Status: **Died** in the Assembly Transportation Committee

Department Position: No approved position.

AB 759 (Kevin Shelley). **Prohibition of Personal Watercraft by Local Agencies.** AB 759 states that any city or county may adopt an ordinance to ban the use of personal watercraft in any navigable water within its jurisdiction. AB 759 requires that any ordinance adopted pursuant to the bill must contain specified provisions, including specified penalties (infraction for a first violation, a maximum \$100 fine for a second violation and a maximum \$200 fine for three or more violations) and signage requirements.

Sponsor: Bluewater Network

Status: Amended on May 14, 2001. Passed the Assembly Transportation Committee (10-9) on May 10, 2001. **Died** on file.

Department Position: No approved position.

AB 777 (Alan Lowenthal). **Federal Navigation Projects.** AB 777 would create the Federal Navigation Project Fund and would direct that all state funds appropriated on and after January 1, 2002, for the purposes of federal navigation projects authorized pursuant to the federal Water Resources Development Act be deposited in that fund.

AB 777 would authorize the Secretary of the Business, Transportation and Housing Agency to allocate moneys in the fund, if the Secretary of that agency finds that the allocation is in the best interests of the State, to local governmental entities to provide matching funds for those federal navigation projects in an amount not to exceed 50% of the amount contributed by those entities for those projects.

Sponsor: California Association of Port Authorities

Status: Amended on January 24, 2002. Passed the Assembly (68-7). In the Senate Transportation Committee.

Department Position: No approved position.

AB 862 (Helen Thomson). **Federal Navigation Project, Port of Sacramento, \$16 million/DBW.** AB 862 would appropriate \$16 million from the General Fund to the Department of Boating and Waterways for allocation for fiscal year 2001-02 to the Port of Sacramento for the purpose of meeting local matching share requirements for federal navigation projects, which are carried out by the U.S. Army Corps of Engineers.

Sponsor: Port of Sacramento

Status: Introduced on February 22, 2001. Passed the Assembly Natural Resources Committee (10-0) on April 3, 2001. **Died** in the Assembly Appropriations Committee.

Department Position: No approved position.

AB 1243 (Patricia Wiggins). **Spud Point Marina Loan.** A law passed in 1998, which expired in 2001, suspended payments for a loan made by the Department to Sonoma County for the development of the Spud Point Marina. AB 1243 would continue the allowance of suspended loan and interest payments and penalties, and the accrual of further interest and penalties under the loan until July 1, 2003, or until an earlier date to which the County and the department may agree.

AB 1243 also states that the Legislature finds and declares that the County of Sonoma and the department are engaged in good faith negotiations in an effort to resolve their dispute as to the outstanding debt owed by the county to the department and an additional extension will provide the parties with the time to complete their negotiations.

Sponsor: Author

Status: Amended September 14, 2001, with the Spud Point provision. In the Senate Appropriations Committee. **According to a representative of the author, the bill, as written, will not be moving forward.**

Department Position: No approved position.

AB 1410 (Dennis Hollingsworth). **Local Prohibition of Vessels, Financial Repercussions.** AB 1410 would subject a local agency that prohibits any type of vessel in all navigable waterways under its jurisdiction to certain conditions, including:

- (1) Any vessel registration fees derived from the banned vessels that are appropriated to the Department of Boating and Waterways would be required to be retained by the Department and could not be used by, or within, the local agency that banned the vessel.
- (2) Any amounts of sales or use taxes derived from the sale of banned vessels within the city or county, which would otherwise be allocated to the city or county, would be required to be retained by the State.
- (3) Any personal property taxes levied on the banned vessels in the county or city, otherwise allocated to the city or county, would be retained by the State.

AB 1410 also states that the Department shall not accept an application for grant money, or grant money under its control to any county or city subject to AB 1410, for public launch ramp or boating facility improvements.

Sponsor: American Watercraft Association.

Status: Amended January 8, 2002. Failed passage January 7 and 14 (reconsideration), 2002, in the Assembly Transportation Committee. **Dead bill.**

Department Position: No approved position.

AB 1782 (Kehoe). **Harbor and Ports Security Bonds.** AB 1782 would enact the Harbor and Port Protection Bond Act of 2002, which, if adopted, would authorize the issuance of bonds in the amount of \$350 million for purposes of financing capital improvement projects that provide enhanced security at harbors and ports, administered by the California Transportation Commission.

Sponsor: Author

Status: Introduced on January 10, 2002. In the Assembly Transportation Committee.

Department Position: No approved position.

AB 2005 (Nakano). **Boating Law Enforcement.** Existing law requires that a person convicted of violating certain vessel operational laws be ordered by the court to complete and pass a boating safety course approved by the Department of Boating and Waterways. AB 2005 would require the court to order the completion of the boating safety course if the person is convicted of violating:

- (a) Section 655 (a) of the Harbors and Navigation Code – reckless or negligent operation of a vessel so as to endanger the life, limb or property of any person.

(b) Rules of the road and pilot rules adopted by the U.S. Coast Guard and incorporated by reference in the Department's regulations (Section 6600.1, Title 14 of the California Code of Regulations).

(c) Specific reckless or negligent acts stated in Department regulations (Section 6697, Title 14, California Code of Regulations).

Existing law prohibits any person from operating a personal watercraft at any time between the hours from one-half hour after sunset to one-half hour before sunrise, except as specified. A violation of this provision is an infraction. AB 2005 would prohibit any person from operating a personal watercraft at any time between the hours from sunset to sunrise.

Sponsor: Department of Boating and Waterways

Status: Introduced on February 19, 2002.

Position: Support

AB 2362 (Canciamilla). **Unseaworthy Vessels, Permits for Liveaboard Vessels** . AB 2362 would:

?? find and declare that the San Francisco Bay Delta is becoming increasingly congested with abandoned and inhabited, unseaworthy vessels and that the intent of the Legislature to enact programs to remove these potentially dangerous and harmful obstacles from all navigable waterways.

?? make it a misdemeanor for a person to secure, anchor, or moor, or permit the securing, anchoring, or mooring of a vessel in a harbor, waterway, or maritime facility, if the vessel is unseaworthy, as defined, is in a badly deteriorated condition, is likely to sink, is likely to damage docks, wharves, floats, or other vessels, or any combination thereof, or is likely to become a hazard to navigation.

?? define “unseaworthy” as either:

(1) **unfit or unsafe to travel on the water** under its own sailing or mechanical propulsion system, or

(2) not in compliance with all applicable regulations.

?? require counties to issue a notice to comply for vessels for which proof of seaworthiness cannot be demonstrated, clearly identifying the area in which the vessel is deemed to be unseaworthy and providing a compliance date by which the vessel's owner is required to demonstrate satisfactory correction of the deficiencies.

- ?? require counties to establish and administer a compliance procedure, including establishment and administration of a Seaworthiness Compliance Mediation Committee, with five members as specified,
- ?? mandate that failure (of a boat owner, we presume) to demonstrate correction of any deficiency within the established compliance period would be a misdemeanor.
- ?? **allow a county**, upon determination that a violation of the provisions in the bill had occurred, to either:

- (1) cause the vessel to be relocated to a safer location, in or out of the water, and/or**

- (2) summarily abate the condition.**

- ?? allow a county to remove immediately a vessel that presents a hazard to other vessels and make the last owner of record, or the last registered owner, responsible for the costs of removal.
- ?? make it a misdemeanor for any person to use any marine home, as defined, within any harbor, waterway, or maritime facility as a dwelling **in excess of three days within any seven day period unless that person has been authorized liveaboard status, as defined, by the person in charge of the facility and has obtained a specified liveaboard permit from the county.**
- ?? define a “marine home” as any floating home, houseboat, or any other floating facility that is used as dwelling on any waterway.
- ?? require that the liveaboard permit be issued, and renewed annually, by the county after establishing that the applicant’s marine home meets all of the following conditions:
 - (1) meets the seaworthiness standard of the bill,
 - (2) has an approved marine sanitation device
- ?? prohibit any person living aboard any marine home using a harbor, waterway, or maritime facility from using the toilet fixtures of the home unless that use will not violate any applicable provision of the Harbors and Navigation Code relating to vessel sanitation or create a public nuisance.
- ?? require the owner of any marine home not equipped with approved and acceptable devices for the neutralization or storage of contaminants to post notices that the toilet facilities aboard may not be used while the home is moored in or using the waters of any harbor, waterway, or maritime facility.

- ?? prohibit any person from living aboard the marine home until the violation of the regulations has been corrected.
- ?? make it a misdemeanor for **the owner or manager of any harbor or maritime facility** to maintain or **allow liveaboard vessels that violate vessel sanitation laws or that create a public nuisance.**
- ?? **allow a county**, upon determination that a violation of the provisions in the bill had occurred, **to either:**

(1) cause a marine home to be relocated to a safer location, in or out of the water, and/or

(2) summarily abate the condition.

- ?? **allow a county to remove immediately a marine home that presents a hazard to other vessels** and make the last owner of record, or the last registered owner, responsible for the costs of removal.

Sponsor: Author

Status: Introduced on February 21, 2002

Department Position: No approved position

AB 3034 (Assembly Judiciary Committee). **Spud Point Marina; Code Maintenance Bill.**
AB 3034 would delete statutory language that states:

“Notwithstanding any other provision of this chapter, Section 82, or any contract or agreement to the contrary, loan payments on the loan on behalf of Spud Point Marina in the County of Sonoma, as authorized by Schedule (b)(8) of Item 3680-101-516 of Section 2.00 of the Budget Act of 1982, and administered by the department, may be renegotiated by the department and the County of Sonoma, with the advice and consent of the commission, to solve the fiscal problems involving the marina existing on the effective date of the act enacting this section during the 1994 portion of the 1993–94 Regular Session.”

The Department was informed by a staff member of the Assembly Judiciary Committee that there are two Section 71.7s in the Harbors and Navigation Code and that AB 3034 would delete only the first chaptered version.

Sponsor: Assembly Judiciary Committee

Status: Introduced on March 12, 2002

Department Position: No approved position.

SENATE BILLS

SB 200 (Wesley Chesbro). **Federal Dredging Projects, New State Fund.** SB 200 would create the "Federal Navigation Project Fund", to provide matching funds to local agencies for federal navigation projects. The new fund would be administered by the Business, Transportation and Housing Agency. All State funds appropriated for the purpose of federal navigation projects would be required to be deposited in the new fund.

Sponsor: Author

Status: Amended on January 7, 2002. Passed the Senate Housing and Community Development Committee (6-0) on April 3, 2001. **Died** in the Senate Appropriations Committee.

Department Position: Oppose Unless Amended

SB 649 (Senate Environmental Quality Committee). **DBW Loans/Marine Environmental Regulations.** In part, SB 649 would require the Department of Boating and Waterways to adopt regulations concerning policies and standards for restrooms, vessel pumpout facilities, oil recycling facilities, and receptacles for the purpose of separating and recycling all solid waste materials, in regard to loans made by the Department to public agencies for the development of small craft harbors (amended into the bill on July 19, 2001).

Sponsor: Author

Status: Amended on August 27, 2001. Passed the Senate (39-0) on May 7, 2001. Passed the Assembly Natural Resources Committee (11-0) on July 10, 2001. Passed the Assembly Appropriations Committee (21-0) on August 23, 2001. On the Assembly floor.

Department Position: No approved position.

SB 995 (Bill Morrow). **Special-Use Areas.** Existing law requires that any ordinance or regulation adopted by a local or state agency, other than the Department, relating to vessels pertain only to time-of-day restrictions, speed zones, special-use areas, and sanitation and pollution control. Existing law also defines "special-use area" as all or a portion of a waterway that is set aside for specified uses or activities to the exclusion of other incompatible uses or activities.

SB 995 would prohibit local and state agencies, other than the Department, from adopting any ordinance or regulation that would allow special-use areas to interfere with boating access to channels, shipping lanes, or international waters.

SB 995 would require that a special-use area adopted by a local or state agency, other than the Department, allow boating access for point-to-point transit to waters outside of the special use area.

Sponsor: American Watercraft Association

Status: Introduced on February 23, 2001. Failed passage in the Senate Natural Resources and Wildlife Committee on January 15, 2002. **Dead bill.**

Department Position: No approved position.

SB 1108 (Deborah Ortiz). **Water Hyacinth.** SB 1108 would declare the intent of the Legislature to enact legislation prohibiting the sale, transport, export, import, or planting of water hyacinth. (Note: as written, SB 1108 does not prohibit any activities because the bill declares only legislative intent.)

Sponsor: Author

Status: Introduced on February 23, 2001. **Died** in the Senate Rules Committee.

Department Position: No approved position.

SB 1573 (Karnette). **Interagency Aquatic Invasive Species Council.** SB 1573 would establish an "Interagency Aquatic Invasive Species Council," which would be chaired by the director of the Department of Fish and Game, and include representatives from several State agencies, including the Department of Boating and Waterways.

The council would be required to establish a plan for dealing (prevention, education, monitoring, potential eradication, enforcement) with invasive species, including plants and animals, to be submitted to the Legislature on or before January 1, 2004.

Sponsor: Author

Status: Introduced on February 20, 2002. In the Senate Natural Resources and Wildlife Committee.

Department Position: No approved position.

SB 1817 (Chesbro).). **Federal Dredging Projects, New State Fund.** SB 1817 would:

- (a) require that all State funds appropriated for federal navigation projects be deposited in the Federal Navigation Project Fund, which is created by the bill.
- (b) require that the director of the Department of Boating and Waterways allocate moneys in the fund, if he or she finds that the allocation is in the best interests of the state, to local government entities to provide for those federal navigation projects in an amount not to exceed 50% of the amount contributed by those entities for those projects.
- (c) Require the director to complete an evaluation and ranking of state port and harbor dredge projects that have been approved for federal funding as specified.

Sponsor: Author

Status: Introduced on February 22, 2002. In the Senate Transportation Committee.

Department Position: No approved position.

SB 2057 (O'Connell). **False Search and Rescue Reports.** Existing law provides that any individual who reports to state and local agencies that an emergency exists knowing that the report is false is guilty of a misdemeanor.

SB 2057 would provide, in addition, that any individual who makes a false report to any agency or agency official responsible for conducting search and rescue in the state, including state waters, knowing that the report is false is guilty of a misdemeanor. SB 2057 would also expand the definition of an emergency to include a condition which causes agencies or officials to attempt to save lives or property, or to otherwise respond to the condition.

Sponsor: California Association of Harbor Masters and Port Captains

Status: Introduced on February 22, 2002.

Department Position: No approved position.

SB 2086 (Senate Revenue and Taxation Committee). **Property Taxation/ Marinas/ Required List of Renters.** In part, SB 2086 states (verbatim) that:

- “(a) The owner or operator of a public marina, a private marina, or vessel storage facility shall, upon the request of the assessor of the county in which that marina or vessel storage facility is located, provide to the assessor a statement containing all of the following:
- (1) A list of the names and addresses of all renters of marina slips or storage spaces that contain a vessel on the lien date.
 - (2) The slip number or storage space number of each vessel described in paragraph (1).
 - (3) The vessel registration number or documentation number of each vessel moored or stored at the marina or storage facility.
- (b) (1) An owner or operator of a public marina, a private marina, or vessel storage facility that fails to provide the statement required by subdivision (a) shall be assessed a penalty of one thousand dollars (\$1,000).
- (2) Notwithstanding paragraph (1), if the owner or operator of a public marina, a private marina, or vessel storage facility is assessed a penalty pursuant to that paragraph, that penalty may be abated if the owner or operator establishes to

the satisfaction of a county board of equalization or an assessment appeals board all of the following:

(A) That the failure to file a statement was due to a reasonable cause and was not due to the willful neglect of the owner or operator.

(B) That a written application for abatement of the penalty was filed with the county board of equalization within the time period prescribed by Section 1603.

(C) That the requested statement was provided to the county assessor on or before the date that the application for abatement was filed. read: (sic)"

Sponsor: California Assessors Association

Status: Introduced on March 4, 2002. In the Senate Revenue and Taxation Committee.
According to a committee staff consultant, the above language will be deleted from the bill, due to opposition from boating organizations.

Department Position: No approved position.